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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,905	03/23/2004	James W. Forbes	200405.00021	3982
21324	7590	09/22/2005		
HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076			EXAMINER GORDON, STEPHEN T	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,905

Applicant(s)

FORBES, JAMES W.

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 is/are allowed.
- 6) ☒ Claim(s) 5-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4-4-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of the species of figure 12a in the reply filed on 6-30-05 is acknowledged. Applicant indicates that all pending claims read on the elected embodiment. No claims are currently withdrawn.
2. Regarding the restriction portion of the requirement, applicant timely traversed the restriction in the 6-30-05 paper. In view of applicant's claim amendments and remarks, the restriction portion of the requirement is withdrawn.
3. The drawings are objected to because label "70" on figure 15 should be ~~470~~— (note page 18 of the instant specification). Additionally, the drawings are deemed informal as they are merely copies of the drawings from the parent patent (i.e. inclusive of the parent patent no and identifying markings). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The disclosure is objected to because of the following informalities: in paragraph 23 – line 3, “thereofThe” should be replaced with –thereof. The—to correct the grammatical error.

Appropriate correction is required.

5. Claims 5-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5-14 are incomplete as they depend from a canceled claim. The exact scope of these claims cannot be ascertained, and they cannot be further treated on the merits at this time.

Claim 15, “one post to an adjacent post” is confusing as it is not clear if/how such posts relate back to the previously recited posts. The phrase apparently constitutes a double inclusion of the previously recited posts. The term “said first longitudinally extending structural member” lacks clear antecedent basis, and “structural” could be deleted from the term to clarify the claim in this regard. Finally, “said longitudinally extending structural member” and “said longitudinally extending face” lack clear antecedent basis. Claim 18, the claim should end in a period.

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Claim 19, to the extent that applicant considers this claim to read on the elected embodiment of figure 12a, the claim is misdescriptive. Specifically, the recited surfaces are not exactly "parallel" as recited – see instant figure 12a.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 15-19, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Saxton '584.

Note bulkheads 30 and posts extending from a deck structure – see figure 1. Note also first longitudinal member 62 and second longitudinal member 64 with an outwardly facing cargo engaging face (figure 4).

Claim 15, member 64 defines a wall as broadly claimed and as best understood – see figure 4.

Claims 16 and 17, the device is configured as broadly claimed and as best understood.

Claim 18, see section 5 – line 7.

Claim 19, to the extent that the recited surfaces of the instant device can be considered parallel, the device is deemed to define parallel surfaces as broadly claimed and as best understood – note section 112-2nd paragraph rejection above.

8. Claims 20-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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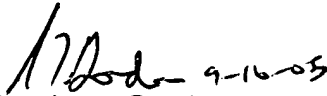
9. Claims 2-4 are allowed.

10. The failure to apply art to claims 5-14 should not be construed as an indication of allowable subject matter. Because the claims so seriously fail to meet the requirements of 35USC112-2nd paragraph for the reasons stated above, it is not possible to apply the prior art claims in deciding patentability without disregarding portions of the express wording of the claims and thus resorting to speculation and conjecture as to the particular invention defined therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg